Supreme Court, U.S.
FILED

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No.

In the Supreme Court of the United States

ALLIANCE OF AUTOMOBILE MANUFACTURERS,

Petitioner,

v.

DAN A. GWADOSKY, in his official capacity as Secretary of State of the State of Maine, and G. STEVEN ROWE, in his official capacity as Attorney General of the State of Maine,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the First Circuit

PETITION FOR A WRIT OF CERTIORARI

RUSSELL R. EGGERT
Mayer, Brown, Rowe & Maw LLP
71 S. Wacker Drive
Chicago, Illinois 60606
(312) 701-7350

ANDREW J. PINCUS
Counsel of Record
WILLIAM L. OLSEN
Mayer, Brown, Rowe & Maw LLP
1909 K Street, NW
Washington, DC 20006
(202) 263-3000

Counsel for Petitioner

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20001

QUESTION PRESENTED

Whether a court may determine the legislative purpose underlying a statute based solely on the general statement of purpose contained in a prior-enacted law amended by the statute in question, or whether the court instead must assess the purpose of the legislature that enacted the new statute.

RULE 29.6 STATEMENT

The Alliance of Automobile Manufacturers ("the Alliance") is an I.R.C. Section 501(c)(6) not-for-profit trade association that operates for the purpose of promoting the general commercial, professional, legislative and other common interests of its membership. The Alliance has no parent companies or subsidiaries and no publicly held stock. The following companies comprise the membership of the Alliance:

1. BMW Group
2. DaimlerChrysler Corporation
3. Ford Motor Company
4. General Motors Corporation
5. Mazda North American Operations
6. Mitsubishi Motors North America, Inc.
7. Porsche Cars North America, Inc.
8. Toyota Motor North America, Inc.
9. Volkswagen of America, Inc.

The parties to the proceeding in the court of appeals were the Alliance, Dan A. Gwadosky (in his official capacity as Secretary of State of the State of Maine), and G. Steven Rowe (in his official capacity as Attorney General of the State of Maine).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, the Alliance of Automobile Manufacturers ("the Alliance"), respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-22a) is reported at 430 F.3d 30. The district court's opinion denying petitioner's motion for a preliminary injunction (*id.* at 44a-66a) is reported at 304 F. Supp. 2d 104. The district court's opinion denying petitioner's motion for summary judgment and granting respondents' motion for summary judgment (*id.* at 23a-43a) is reported at 353 F. Supp. 2d 97. The judgment of the district court (*id.* at 69a) is not reported.

JURISDICTION

The judgment of the court of appeals was entered on November 18, 2005. A petition for rehearing and rehearing *en banc* was denied on December 15, 2005. App., *infra*, 67a-68a. The jurisdiction of this Court rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Commerce Clause of the United States Constitution (art. I, § 8, cl. 3) provides that "Congress shall have Power * * * [t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

2. Prior to its amendment in 2003, Section 1176 of Title 10 of the Maine Revised Statutes provided, in pertinent part:

> If a motor vehicle franchisor requires or permits a motor vehicle franchisee to perform labor or provide parts in satisfaction of a warranty created by the

> franchisor, the franchisor shall properly and promptly fulfill its warranty obligations, in the case of motor vehicles over 10,000 pounds gross vehicle weight rating, shall adequately and fairly compensate the franchisee for any parts so provided and, in the case of all other motor vehicles, shall reimburse the franchisee for any parts so provided at the retail rate customarily charged by that franchisee for the same parts when not provided in satisfaction of a warranty. Further, the franchisor shall reimburse the franchisee for any labor so performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty; * * *.

See App., *infra*, 70a-71a (complete text of 10 M.R.S.A. § 1176 prior to amendment).

3. Section 10 of Maine Legislative Document 1294 ("LD 1294") amended Section 1176 by adding, among other things, the following sentence after the first full sentence of the pre-existing provision:

> A franchisor may not otherwise recover its costs for reimbursing a franchisee for parts and labor pursuant to this section.

See App., *infra*, 72a-74a (complete text of Section 10 of LD 1294).

4. Section 1182 of Title 10 of the Maine Revised Statutes, provides:

> Any contract or part thereof or practice thereunder in violation of any provision of this chapter shall be deemed against public policy and shall be void and unenforceable.
>
> The Legislature finds that the manufacture, distribution and sale of motor vehicles in the State vitally affects the general economy of the State and the

public interest and public welfare; that the manufacturers of motor vehicles whose physical manufacturing facilities are not located within the State and distributors are doing business in the State through their control over and relationship and transactions with their dealers in the State; that the geographical location of the State makes it necessary to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State to protect and preserve the transportation system, the public safety and welfare and the investments of its residents. The Legislature declares, on the basis of these findings, that it is necessary to regulate and to license motor vehicle manufacturers and distributors and their branches and representatives, motor vehicle dealers and any other person engaged in the business of selling or purchasing vehicles in the State in order to prevent frauds, impositions and other abuses against residents and to protect and preserve the economy, the investments of residents, the public safety and the transportation system of the State.

STATEMENT

This case involves a question of exceptional importance: how a court should determine legislative purpose when applying a federal-law protection that depends on whether a legislature acted with an impermissible purpose. Although the issue arises here in connection with a claim under the Commerce Clause, several other constitutional protections — including those embodied in the First and Fourteenth Amendments — as well as numerous statutory preemption standards also turn upon legislative purpose. The First Circuit's erroneous approach to determining the intent of the Maine legislature in enacting the provision challenged in this case threatens to undermine the proper application of all of these constitutional and statutory protections.

The court of appeals recognized that "[t]he historic relationship between motor vehicle manufacturers and dealers is not a particularly congenial one." App., *infra*, 2a. Dealers have sought and obtained enactment of state laws regulating the provisions that may be included in franchise agreements between manufacturers and dealers. See generally *id.* at 48a-51a; see also *Saturn Distrib. Corp.* v. *Williams*, 905 F.2d 719 (4th Cir. 1990) (finding that the Federal Arbitration Act pre-empts a provision of the Virginia Motor Vehicle Licensing Act barring mandatory alternative dispute resolution provisions in motor vehicle franchise agreements); *New Motor Vehicle Bd.* v. *Orrin W. Fox Co.*, 439 U.S. 96 (1978). Because dealers represent a powerful in-state economic interest while manufacturers have operations in relatively few states, these statutes often raise the precise concerns about discrimination against interstate commerce that are the object of the Commerce Clause.

Maine requires manufacturers to pay retail rates for warranty repairs performed by Maine dealers. After manufacturers imposed a surcharge on wholesale prices for new motor vehicles in order to recover this extraordinary cost (Maine is one of a handful of states where motor vehicle dealers are obtaining retail rates for warranty repair reimbursements), Maine enacted a new statute barring manufacturers from recovering the additional costs of paying the state-mandated warranty reimbursement rates ("the recoupment bar"). The court of appeals held that the recoupment bar did not have the purpose of discriminating against interstate commerce in violation of the Commerce Clause, relying on a general statement of policy concerning Maine's motor vehicle franchise law as a whole that was enacted six years ***before*** the recoupment bar. In reaching this conclusion, the First Circuit completely ignored the clear record evidence that the legislature enacted the recoupment bar in order to protect Maine motor vehicle dealers by imposing a discriminatory burden on interstate commerce.